

# House File 2049 - Introduced

HOUSE FILE 2049

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## A BILL FOR

1 An Act relating to controlled substances, including by  
2 modifying the penalties for controlled substances containing  
3 cocaine base, enhancing the penalties for imitation  
4 controlled substances, modifying the controlled substances  
5 listed in schedules I, III, and IV, and temporarily  
6 designating substances as controlled substances, and  
7 providing penalties.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 124.101, Code 2016, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 15A. "*Imitation controlled substance*" means  
4 a substance which is not a controlled substance but which by  
5 color, shape, size, markings, and other aspects of dosage unit  
6 appearance, and packaging or other factors, appears to be or  
7 resembles a controlled substance. The board of pharmacy may  
8 designate a substance as an imitation controlled substance  
9 pursuant to the board's rulemaking authority and in accordance  
10 with chapter 17A. "*Imitation controlled substance*" also  
11 means any substance determined to be an imitation controlled  
12 substance pursuant to section 124.101B.

13 Sec. 2. NEW SECTION. 124.101B Factors indicating an  
14 imitation controlled substance.

15 If a substance has not been designated as an imitation  
16 controlled substance by the board of pharmacy and if dosage  
17 unit appearance alone does not establish that a substance is an  
18 imitation controlled substance, the following factors may be  
19 considered in determining whether the substance is an imitation  
20 controlled substance:

21 1. The person in control of the substance expressly or  
22 impliedly represents that the substance has the effect of a  
23 controlled substance.

24 2. The person in control of the substance expressly  
25 or impliedly represents that the substance because of its  
26 nature or appearance can be sold or delivered as a controlled  
27 substance or as a substitute for a controlled substance.

28 3. The person in control of the substance either demands or  
29 receives money or other property having a value substantially  
30 greater than the actual value of the substance as consideration  
31 for delivery of the substance.

32 Sec. 3. Section 124.201, subsection 4, Code 2016, is amended  
33 to read as follows:

34 4. If any new substance is designated as a controlled  
35 substance under federal law and notice of the designation is

1 given to the board, the board shall similarly designate as  
 2 controlled the new substance under [this chapter](#) after the  
 3 expiration of thirty days from publication in the federal  
 4 register of a final order designating a new substance as a  
 5 controlled substance, unless within that thirty-day period  
 6 the board objects to the new designation. In that case the  
 7 board shall publish the reasons for objection and afford  
 8 all interested parties an opportunity to be heard. At  
 9 the conclusion of the hearing the board shall announce its  
 10 decision. Upon publication of objection to a new substance  
 11 being designated as a controlled substance under [this chapter](#)  
 12 by the board, control under [this chapter](#) is stayed until the  
 13 board publishes its decision. If a substance is designated  
 14 as controlled by the board under [this subsection](#) the control  
 15 shall be considered a temporary and if, within sixty days after  
 16 the next regular session of the general assembly convenes,  
 17 the general assembly has not made the corresponding changes  
 18 in [this chapter](#), the temporary designation of control of  
 19 the substance by the board shall be nullified amendment to  
 20 the schedules of controlled substances in this chapter. If  
 21 the board so designates a substance as controlled, which  
 22 is considered a temporary amendment to the schedules of  
 23 controlled substances in this chapter, and if the general  
 24 assembly does not amend this chapter to enact the temporary  
 25 amendment and make the enactment effective within two years  
 26 from the date the temporary amendment first became effective,  
 27 the temporary amendment is repealed by operation of law two  
 28 years from the effective date of the temporary amendment. A  
 29 temporary amendment repealed by operation of law is subject to  
 30 section 4.13 relating to the construction of statutes and the  
 31 application of a general savings provision.

32     Sec. 4. Section 124.204, subsection 4, paragraph ai,  
 33 subparagraphs (3), (4), and (5), Code 2016, are amended by  
 34 striking the subparagraphs.

35     Sec. 5. Section 124.204, subsection 4, paragraph aj, Code

1 2016, is amended by striking the paragraph and inserting in  
2 lieu thereof the following:

3 *aj.* 5-methoxy-N,N-dimethyltryptamine. Some trade or other  
4 names: 5-methoxy-3-[2-(dimethylamino)ethyl]indole; 5-MeO-DMT.

5 Sec. 6. Section 124.204, subsection 4, paragraph *ak*, Code  
6 2016, is amended by striking the paragraph and inserting in  
7 lieu thereof the following:

8 *ak.* 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C-E).

9 Sec. 7. Section 124.204, subsection 4, Code 2016, is amended  
10 by adding the following new paragraphs:

11 NEW PARAGRAPH. *al.* 2-(2,5-Dimethoxy-4-  
12 methylphenyl)ethanamine (2C-D).

13 NEW PARAGRAPH. *am.* 2-(4-Chloro-2,5-  
14 dimethoxyphenyl)ethanamine (2C-C).

15 NEW PARAGRAPH. *an.* 2-(4-Iodo-2,5-  
16 dimethoxyphenyl)ethanamine (2C-I).

17 NEW PARAGRAPH. *ao.* 2-[4-(Ethylthio)-2,5-  
18 dimethoxyphenyl]ethanamine (2C-T-2).

19 NEW PARAGRAPH. *ap.* 2-[4-(Isopropylthio)-2,5-  
20 dimethoxyphenyl]ethanamine (2C-T-4).

21 NEW PARAGRAPH. *aq.* 2-(2,5-Dimethoxyphenyl)  
22 ethanamine (2C-H).

23 NEW PARAGRAPH. *ar.* 2-(2,5-Dimethoxy-4-  
24 nitrophenyl)ethanamine (2C-N).

25 NEW PARAGRAPH. *as.* 2-(2,5-Dimethoxy-4-(n)-  
26 propylphenyl)ethanamine (2C-P).

27 Sec. 8. Section 124.204, subsection 6, paragraph *i*,  
28 subparagraph (3), Code 2016, is amended by striking the  
29 subparagraph and inserting in lieu thereof the following:

30 (3) 3,4-Methylenedioxy-N-methylcathinone (methydone).

31 Sec. 9. Section 124.204, subsection 6, paragraph *i*,  
32 subparagraphs (18), (19), (20), (21), and (22), Code 2016, are  
33 amended by striking the subparagraphs and inserting in lieu  
34 thereof the following:

35 (18) 4-methyl-N-ethylcathinone. Other names: 4-MEC,

1 2-(ethylamino)-1-(4-methylphenyl)propan-1-one.  
2 (19) 4-methyl-alpha6 pyrrolidinopropiophenone.  
3 Other names: 4-MePPP, MePPP,  
4 4-methyl-[alpha]-pyrrolidinopropiophenone, 8  
5 1-(4-methylphenyl)-2-(pyrrolidin-1-yl)-propan-1-one.  
6 (20) Pentedrone. Other names:  
7 [alpha]-methyaminovaleerophenone,  
8 2-(methylamino)-1-phenylpentan-1-one.  
9 (21) Pentylone. Other names: bk-MBDP,  
10 1-(1,3-benzodioxol-5-yl)-2-(methylamino)pentan-1-one.  
11 (22) Alpha-pyrrolidinobutiophenone. Other names:  
12 [alpha]-PBP, 1-phenyl-2-(pyrrolidin-1-yl)butan-1-one.  
13 Sec. 10. Section 124.204, subsection 6, paragraph i,  
14 subparagraphs (23), (24), (25), and (26), Code 2016, are  
15 amended by striking the subparagraphs.  
16 Sec. 11. Section 124.204, subsection 9, Code 2016, is  
17 amended by adding the following new paragraphs:  
18 NEW PARAGRAPH. 0a. HU-210. [(6aR,10aR)-9-(hydroxymethyl)-  
19 6,6-dimethyl-3-(2-methyloctan-2-yl) 6a,7,10,10a-  
20 tetrahydrobenzo[c] chromen-1-ol)].  
21 NEW PARAGRAPH. 00a. HU-211(dexanabinol,  
22 (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-  
23 methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c] chromen-1-ol).  
24 NEW PARAGRAPH. 000a. Unless specifically exempted or unless  
25 listed in another schedule, any material, compound, mixture,  
26 or preparation which contains any quantity of cannabimimetic  
27 agents, or which contains their salts, isomers, and salts of  
28 isomers whenever the existence of such salts, isomers, and  
29 salts of isomers is possible within the specific chemical  
30 designation.  
31 (1) The term "*cannabimimetic agents*" means any substance  
32 that is a cannabinoid receptor type 1 (CB1 receptor) agonist as  
33 demonstrated by binding studies and functional assays within  
34 any of the following structural classes:  
35 (a) 2-(3-hydroxycyclohexyl)phenol with substitution at the

1 5-position of the phenolic ring by alkyl or alkenyl, whether or  
2 not substituted on the cyclohexyl ring to any extent.

3 (b) 3-(1-naphthoyl)indole or 3-(1-naphthylmethane)indole by  
4 substitution at the nitrogen atom of the indole ring, whether  
5 or not further substituted on the indole ring to any extent,  
6 whether or not substituted on the naphthoyl or naphthyl ring  
7 to any extent.

8 (c) 3-(1-naphthoyl)pyrrole by substitution at the nitrogen  
9 atom of the pyrrole ring, whether or not further substituted in  
10 the pyrrole ring to any extent, whether or not substituted on  
11 the naphthoyl ring to any extent.

12 (d) 1-(1-naphthylmethyle)indene by substitution of  
13 the 3-position of the indene ring, whether or not further  
14 substituted in the indene ring to any extent, whether or not  
15 substituted on the naphthyl ring to any extent.

16 (e) 3-phenylacetylindole or 3-benzoylindole by substitution  
17 at the nitrogen atom of the indole ring, whether or not further  
18 substituted in the indole ring to any extent, whether or not  
19 substituted on the phenyl ring to any extent.

20 (2) Such terms include:

21 (a) CP 47,497 and homologues 5-(1,1-dimethylheptyl)-2-  
22 [(1R,3S)-3-hydroxycyclohexyl]phenol.

23 (b) JWH-018 and AM678 1-Pentyl-3-(1-naphthoyl)indole.

24 (c) JWH-073 1-Butyl-3-(1-naphthoyl)indole.

25 (d) JWH-200[1-[2-(4-morpholinyl)ethyl]-1H-  
26 indol-3-yl]-1-naphthalenyl-methanone.

27 (e) JWH-19 1-hexyl-3-(1-naphthoyl)indole.

28 (f) JWH-81 1-pentyl-3-[1-(4-methoxynaphthoyl)]indole.

29 (g) JWH-122 1-pentyl-3-(4-methyl-1-naphthoyl)indole.

30 (h) JWH-250 1-pentyl-3-(2-methoxyphenylacetyl)indole.

31 (i) RCS-4 and SR-19 1-pentyl-3-[(4methoxy)-benzoyl]indole.

32 (j) RCS-8 and SR 18 1-cyclohexylethyl-3-  
33 (2-methoxyphenylacetyl)indole.

34 (k) AM2201 1-(5-fluoropentyl)-3-(1-naphthoyl)indole.

35 (l) JWH-203 1-pentyl-3-(2-chlorophenylacetyl)indole.

1 (m) JWH-398 1-pentyl-3-(4-chloro-1-naphthoyl)indole.  
 2 (n) AM694 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole.  
 3 (o) Cannabicyclohexanol or CP-47,497 C8-homolog 5-  
 4 (1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol.  
 5 NEW PARAGRAPH. *Od.* N-(1-amino-3-methyl-1-oxobutan-2-  
 6 yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide. Other  
 7 names: AB-FUBINACA.  
 8 NEW PARAGRAPH. *00d.* N-(1-amino-  
 9 3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-  
 10 1 H-indazole-3-carboxamide. Other names: ADB-PINACA.  
 11 NEW PARAGRAPH. *000d.* Quinolin-8-yl  
 12 1-pentyl-1H-indole-3-carboxylate.  
 13 Other names: PB-22, QUPIC.  
 14 NEW PARAGRAPH. *0000d.* Quinolin-8-yl  
 15 1-(5-fluoropentyl)-1H-indole-3-carboxylate. Other names:  
 16 5-fluoro-PB-22, 5F-PB-22.  
 17 NEW PARAGRAPH. *00000d.* N-(1-amino-3-methyl-1-oxobutan-  
 18 2-yl)-1-pentyl-1H-indazole-3-carboxamide. Other names:  
 19 AB-PINACA.  
 20 NEW PARAGRAPH. *000000d.* N-(1-amino-3-methyl-1-oxobutan-  
 21 2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide. Other  
 22 names: AB-CHMINACA.  
 23 NEW PARAGRAPH. *0000000d.* [1-(5-fluoropentyl)-1H-indazol-  
 24 3-yl](naphthalen-1-yl)methanone. Other names: THJ-2201.  
 25 Sec. 12. Section 124.208, subsection 5, paragraph a,  
 26 subparagraphs (3) and (4), Code 2016, are amended by striking  
 27 the subparagraphs.  
 28 Sec. 13. Section 124.210, subsection 2, Code 2016, is  
 29 amended by adding the following new paragraph:  
 30 NEW PARAGRAPH. *c.* 2-[(dimethylamino)methyl]-1-  
 31 (3-methoxyphenyl)cyclohexanol, its salts, optical and geometric  
 32 isomers, and salts of these isomers (including tramadol).  
 33 Sec. 14. Section 124.210, subsection 3, Code 2016, is  
 34 amended by adding the following new paragraphs:  
 35 NEW PARAGRAPH. *bb.* Alfaxalone.

1     NEW PARAGRAPH.   *bc.*   Suvorexant.

2     Sec. 15.   Section 124.401, subsection 1, unnumbered  
3 paragraph 1, Code 2016, is amended to read as follows:

4     Except as authorized by *this chapter*, it is unlawful for any  
5 person to manufacture, deliver, or possess with the intent to  
6 manufacture or deliver, a controlled substance, a counterfeit  
7 substance, ~~or~~ a simulated controlled substance, or an imitation  
8 controlled substance, or to act with, enter into a common  
9 scheme or design with, or conspire with one or more other  
10 persons to manufacture, deliver, or possess with the intent to  
11 manufacture or deliver a controlled substance, a counterfeit  
12 substance, ~~or~~ a simulated controlled substance, or an imitation  
13 controlled substance.

14     Sec. 16.   Section 124.401, subsection 1, paragraph a,  
15 unnumbered paragraph 1, Code 2016, is amended to read as  
16 follows:

17     Violation of *this subsection*, with respect to the following  
18 controlled substances, counterfeit substances, ~~or~~ simulated  
19 controlled substances, or imitation controlled substances, is a  
20 class "B" felony, and notwithstanding section 902.9, subsection  
21 1, paragraph "b", shall be punished by confinement for no  
22 more than fifty years and a fine of not more than one million  
23 dollars:

24     Sec. 17.   Section 124.401, subsection 1, paragraph a,  
25 subparagraph (3), Code 2016, is amended to read as follows:

26     (3)   More than ~~fifty~~ one hundred twenty-five grams of a  
27 mixture or substance described in subparagraph (2) which  
28 contains cocaine base.

29     Sec. 18.   Section 124.401, subsection 1, paragraph a, Code  
30 2016, is amended by adding the following new subparagraph:

31     NEW SUBPARAGRAPH.   (8)   More than ten kilograms of a  
32 mixture or substance containing any detectable amount of those  
33 substances identified in section 124.204, subsection 9.

34     Sec. 19.   Section 124.401, subsection 1, paragraph b,  
35 unnumbered paragraph 1, Code 2016, is amended to read as



1 follows:

2 Violation of this subsection with respect to the following  
3 controlled substances, counterfeit substances, ~~or~~ simulated  
4 controlled substances, or imitation controlled substances is a  
5 class "B" felony, and in addition to the provisions of section  
6 902.9, subsection 1, paragraph "b", shall be punished by a  
7 fine of not less than five thousand dollars nor more than one  
8 hundred thousand dollars:

9 Sec. 20. Section 124.401, subsection 1, paragraph b,  
10 subparagraph (3), Code 2016, is amended to read as follows:

11 (3) More than ~~ten~~ thirty-five grams but not more than  
12 ~~fifty~~ one hundred twenty-five grams of a mixture or substance  
13 described in subparagraph (2) which contains cocaine base.

14 Sec. 21. Section 124.401, subsection 1, paragraph b, Code  
15 2016, is amended by adding the following new subparagraph:

16 NEW SUBPARAGRAPH. (9) More than five kilograms but not  
17 more than ten kilograms of a mixture or substance containing  
18 any detectable amount of those substances identified in section  
19 124.204, subsection 9.

20 Sec. 22. Section 124.401, subsection 1, paragraph c,  
21 unnumbered paragraph 1, Code 2016, is amended to read as  
22 follows:

23 Violation of this subsection with respect to the following  
24 controlled substances, counterfeit substances, ~~or~~ simulated  
25 controlled substances, or imitation controlled substances is a  
26 class "C" felony, and in addition to the provisions of section  
27 902.9, subsection 1, paragraph "d", shall be punished by a  
28 fine of not less than one thousand dollars nor more than fifty  
29 thousand dollars:

30 Sec. 23. Section 124.401, subsection 1, paragraph c,  
31 subparagraph (3), Code 2016, is amended to read as follows:

32 (3) ~~Ten~~ Thirty-five grams or less of a mixture or substance  
33 described in subparagraph (2) which contains cocaine base.

34 Sec. 24. Section 124.401, subsection 1, paragraph c,  
35 subparagraph (8), Code 2016, is amended to read as follows:

1 (8) Any other controlled substance, counterfeit substance,  
2 ~~or simulated controlled substance, or imitation controlled~~  
3 substance classified in schedule I, II, or III, except as  
4 provided in paragraph "d".

5 Sec. 25. Section 124.401, subsection 1, paragraph c, Code  
6 2016, is amended by adding the following new subparagraph:

7 NEW SUBPARAGRAPH. (7A) Five kilograms or less of a  
8 mixture or substance containing any detectable amount of those  
9 substances identified in section 124.204, subsection 9.

10 Sec. 26. Section 124.401, subsection 1, paragraph d, Code  
11 2016, is amended to read as follows:

12 d. Violation of this subsection, with respect to any other  
13 controlled substances, counterfeit substances, ~~or simulated~~  
14 ~~controlled substances classified in section 124.204, subsection~~  
15 ~~4, paragraph "ai", or section 124.204, subsection 6, paragraph~~  
16 ~~"i", or, or imitation controlled substances~~ classified in  
17 schedule IV or V is an aggravated misdemeanor. However,  
18 violation of this subsection involving fifty kilograms or less  
19 of marijuana or involving flunitrazepam is a class "D" felony.

20 Sec. 27. Section 124.401, subsection 2, Code 2016, is  
21 amended to read as follows:

22 2. If the same person commits two or more acts which are in  
23 violation of subsection 1 and the acts occur in approximately  
24 the same location or time period so that the acts can be  
25 attributed to a single scheme, plan, or conspiracy, the acts  
26 may be considered a single violation and the weight of the  
27 controlled substances, counterfeit substances, ~~or simulated~~  
28 controlled substances, or imitation controlled substances  
29 involved may be combined for purposes of charging the offender.

30 Sec. 28. Section 124.401, subsection 5, unnumbered  
31 paragraph 1, Code 2016, is amended to read as follows:

32 It is unlawful for any person knowingly or intentionally  
33 to possess a controlled substance unless such substance was  
34 obtained directly from, or pursuant to, a valid prescription  
35 or order of a practitioner while acting in the course of the

1 practitioner's professional practice, or except as otherwise  
 2 authorized by [this chapter](#). Any person who violates this  
 3 subsection is guilty of a serious misdemeanor for a first  
 4 offense. A person who commits a violation of [this subsection](#)  
 5 and who has previously been convicted of violating [this chapter](#)  
 6 or [chapter 124A](#), [124B](#), or [453B](#), or chapter 124A as it existed  
 7 prior to July 1, 2016, is guilty of an aggravated misdemeanor.  
 8 A person who commits a violation of [this subsection](#) and has  
 9 previously been convicted two or more times of violating this  
 10 chapter or [chapter 124A](#), [124B](#), or [453B](#), or chapter 124A as it  
 11 existed prior to July 1, 2016, is guilty of a class "D" felony.

12 Sec. 29. Section 124.401A, Code 2016, is amended to read as  
 13 follows:

14 **124.401A Enhanced penalty for manufacture or distribution to**  
 15 **persons on certain real property.**

16 In addition to any other penalties provided in [this chapter](#),  
 17 a person who is eighteen years of age or older who unlawfully  
 18 manufactures with intent to distribute, distributes, or  
 19 possesses with intent to distribute a substance or counterfeit  
 20 substance listed in schedule I, II, or III, or a simulated or  
 21 imitation controlled substance represented to be a controlled  
 22 substance classified in schedule I, II, or III, to another  
 23 person who is eighteen years of age or older in or on, or within  
 24 one thousand feet of the real property comprising a public or  
 25 private elementary or secondary school, public park, public  
 26 swimming pool, public recreation center, or on a marked school  
 27 bus, may be sentenced up to an additional term of confinement  
 28 of five years.

29 Sec. 30. Section 124.401B, Code 2016, is amended to read as  
 30 follows:

31 **124.401B Possession of controlled substances on certain real**  
 32 **property — additional penalty.**

33 In addition to any other penalties provided in [this chapter](#)  
 34 or another chapter, a person who unlawfully possesses a  
 35 substance listed in schedule I, II, or III, or a simulated or

1 imitation controlled substance represented to be a controlled  
2 substance classified in schedule I, II, or III, in or on, or  
3 within one thousand feet of the real property comprising a  
4 public or private elementary or secondary school, public park,  
5 public swimming pool, public recreation center, or on a marked  
6 school bus, may be sentenced to one hundred hours of community  
7 service work for a public agency or a nonprofit charitable  
8 organization. The court shall provide the offender with a  
9 written statement of the terms and monitoring provisions of the  
10 community service.

11 Sec. 31. Section 124.406, subsection 2, Code 2016, is  
12 amended to read as follows:

13 2. A person who is eighteen years of age or older who:

14 a. Unlawfully distributes or possesses with the intent to  
15 distribute a counterfeit substance listed in schedule I or II,  
16 or a simulated or imitation controlled substance represented  
17 to be a substance classified in schedule I or II, to a person  
18 under eighteen years of age commits a class "B" felony.

19 However, if the substance was distributed in or on, or within  
20 one thousand feet of, the real property comprising a public or  
21 private elementary or secondary school, public park, public  
22 swimming pool, public recreation center, or on a marked school  
23 bus, the person shall serve a minimum term of confinement of  
24 ten years.

25 b. Unlawfully distributes or possesses with intent to  
26 distribute a counterfeit substance listed in schedule III, or  
27 a simulated or imitation controlled substance represented to  
28 be any substance listed in schedule III, to a person under  
29 eighteen years of age who is at least three years younger than  
30 the violator commits a class "C" felony.

31 c. Unlawfully distributes a counterfeit substance listed  
32 in schedule IV or V, or a simulated or imitation controlled  
33 substance represented to be a substance listed in schedule IV  
34 or V, to a person under eighteen years of age who is at least  
35 three years younger than the violator commits an aggravated

1 misdemeanor.

2     Sec. 32. Section 124.415, Code 2016, is amended to read as  
3 follows:

4     **124.415 Parental and school notification — persons under**  
5 **eighteen years of age.**

6     A peace officer shall make a reasonable effort to identify a  
7 person under the age of eighteen discovered to be in possession  
8 of a controlled substance, counterfeit substance, ~~or~~ simulated  
9 controlled substance, or imitation controlled substance in  
10 violation of this chapter, and if the person is not referred  
11 to juvenile court, the law enforcement agency of which the  
12 peace officer is an employee shall make a reasonable attempt  
13 to notify the person's custodial parent or legal guardian  
14 of such possession, whether or not the person is arrested,  
15 unless the officer has reasonable grounds to believe that such  
16 notification is not in the best interests of the person or will  
17 endanger that person. If the person is taken into custody,  
18 the peace officer shall notify a juvenile court officer who  
19 shall make a reasonable effort to identify the elementary or  
20 secondary school the person attends, if any, and to notify the  
21 superintendent of the school district, the superintendent's  
22 designee, or the authorities in charge of the nonpublic school  
23 of the taking into custody. A reasonable attempt to notify  
24 the person includes but is not limited to a telephone call or  
25 notice by first-class mail.

26     Sec. 33. NEW SECTION. **124.417 Imitation controlled**  
27 **substances — exceptions.**

28     It is not unlawful under this chapter for a person registered  
29 under section 124.302, to manufacture, deliver, or possess with  
30 the intent to manufacture or deliver, or to act with, one or  
31 more other persons to manufacture, deliver, or possess with  
32 the intent to manufacture or deliver an imitation controlled  
33 substance for use as a placebo by a registered practitioner in  
34 the course of professional practice or research.

35     Sec. 34. Section 124.502, subsection 1, paragraph a, Code

1 2016, is amended to read as follows:

2     a. A district judge or district associate judge, within  
3 the court's jurisdiction, and upon proper oath or affirmation  
4 showing probable cause, may issue warrants for the purpose of  
5 conducting administrative inspections under [this chapter](#) or  
6 a related rule ~~or under [chapter 124A](#)~~. The warrant may also  
7 permit seizures of property appropriate to the inspections.  
8 For purposes of the issuance of administrative inspection  
9 warrants, probable cause exists upon showing a valid public  
10 interest in the effective enforcement of the statute or related  
11 rules, sufficient to justify administrative inspection of the  
12 area, premises, building, or conveyance in the circumstances  
13 specified in the application for the warrant.

14     Sec. 35. Section 155A.6, subsection 3, Code 2016, is amended  
15 to read as follows:

16     3. The board shall establish standards for  
17 pharmacist-intern registration and may deny, suspend,  
18 or revoke a pharmacist-intern registration for failure to meet  
19 the standards or for any violation of the laws of this state,  
20 another state, or the United States relating to prescription  
21 drugs, controlled substances, or nonprescription drugs, or for  
22 any violation of [this chapter](#) or [chapter 124](#), ~~[124A](#)~~, [124B](#), [126](#),  
23 [147](#), or [205](#), or any rule of the board.

24     Sec. 36. Section 155A.6A, subsection 5, Code 2016, is  
25 amended to read as follows:

26     5. The board may deny, suspend, or revoke the registration  
27 of, or otherwise discipline, a registered pharmacy technician  
28 for any violation of the laws of this state, another state, or  
29 the United States relating to prescription drugs, controlled  
30 substances, or nonprescription drugs, or for any violation of  
31 this chapter or [chapter 124](#), ~~[124A](#)~~, [124B](#), [126](#), [147](#), [205](#), or  
32 [272C](#), or any rule of the board.

33     Sec. 37. Section 155A.6B, subsection 5, Code 2016, is  
34 amended to read as follows:

35     5. The board may deny, suspend, or revoke the registration

1 of a pharmacy support person or otherwise discipline the  
2 pharmacy support person for any violation of the laws of  
3 this state, another state, or the United States relating to  
4 prescription drugs, controlled substances, or nonprescription  
5 drugs, or for any violation of [this chapter](#) or [chapter 124](#),  
6 ~~124A~~, [124B](#), [126](#), [147](#), [205](#), or [272C](#), or any rule of the board.

7 Sec. 38. Section 155A.13A, subsection 3, Code 2016, is  
8 amended to read as follows:

9 3. *Discipline.* The board may deny, suspend, or revoke a  
10 nonresident pharmacy license for any violation of [this section](#),  
11 section 155A.15, subsection 2, paragraph "a", "b", "d", "e",  
12 "f", "g", "h", or "i", [chapter 124](#), ~~124A~~, [124B](#), [126](#), or [205](#), or  
13 a rule of the board.

14 Sec. 39. Section 155A.17, subsection 2, Code 2016, is  
15 amended to read as follows:

16 2. The board shall establish standards for drug wholesaler  
17 licensure and may define specific types of wholesaler licenses.  
18 The board may deny, suspend, or revoke a drug wholesale license  
19 for failure to meet the applicable standards or for a violation  
20 of the laws of this state, another state, or the United  
21 States relating to prescription drugs, devices, or controlled  
22 substances, or for a violation of [this chapter](#), [chapter 124](#),  
23 ~~124A~~, [124B](#), [126](#), or [205](#), or a rule of the board.

24 Sec. 40. Section 155A.42, subsection 4, Code 2016, is  
25 amended to read as follows:

26 4. The board may deny, suspend, or revoke a limited drug and  
27 device distributor's license for failure to meet the applicable  
28 standards or for a violation of the laws of this state, another  
29 state, or the United States relating to prescription drugs or  
30 controlled substances, or for a violation of [this chapter](#),  
31 [chapter 124](#), ~~124A~~, [124B](#), [126](#), [205](#), or [272C](#), or a rule of the  
32 board.

33 Sec. 41. REPEAL. Chapter 124A, Code 2016, is repealed.

34 EXPLANATION

35 The inclusion of this explanation does not constitute agreement with

1           the explanation's substance by the members of the general assembly.

2       This bill relates to controlled substances, including by  
3 enhancing the penalties for imitation controlled substances,  
4 modifying the controlled substances listed in schedules I,  
5 III, IV, and temporarily designating substances as controlled  
6 substances.

7       TEMPORARY CONTROLLED SUBSTANCE DESIGNATION. Under current  
8 law and in the bill, the board of pharmacy may designate a new  
9 substance as a controlled substance, by administrative rule,  
10 without the general assembly amending Code chapter 124, only  
11 if the substance is designated as a controlled substance under  
12 federal law.

13      If the board of pharmacy designates a substance as  
14 controlled, the bill specifies that the temporary designation  
15 is considered a temporary amendment to the schedules of  
16 controlled substances in Code chapter 124, and if the general  
17 assembly does not amend Code chapter 124 to enact the temporary  
18 amendment and make the enactment effective within two years  
19 from the date the temporary amendment first became effective,  
20 the temporary amendment is repealed by operation of law two  
21 years from the effective date of the temporary amendment. A  
22 temporary amendment repealed by operation of law is subject to  
23 Code section 4.13 relating to the construction of statutes and  
24 the application of a general savings provision.

25      Current law provides that if within 60 days after the next  
26 general assembly convenes the general assembly has not made  
27 the corresponding changes in Code chapter 124, the temporary  
28 designation that the substance is a controlled substance is  
29 nullified.

30      COCAINE BASE. The bill increases the amounts of controlled  
31 substances containing cocaine base (crack cocaine) that  
32 determine the criminal penalty for certain offenses. Under  
33 the bill, if a person unlawfully manufactures, delivers, or  
34 possesses with the intent to deliver a controlled substance  
35 containing cocaine base, or unlawfully acts with, enters into



1 a common scheme or design with, or conspires with one or more  
2 persons to manufacture, deliver, or possess such a controlled  
3 substance, the person commits the following offenses: a class  
4 "B" felony punishable by confinement of no more than 50 years  
5 and a fine of not more than \$1 million if the controlled  
6 substance containing cocaine base is more than 125 grams rather  
7 than the current 50 grams; a class "B" felony punishable by  
8 confinement of no more than 25 years and a fine of not less than  
9 \$5,000 but not more than \$100,000 if the imitation controlled  
10 substance is more than 35 grams but not more than 125 grams  
11 rather than the current 10 to 50 grams; or a class "C" felony  
12 punishable by a fine of not less than \$1,000 but not more than  
13 \$50,000 if the controlled substance containing cocaine base is  
14 35 grams or less rather than the current 10 grams or less.

15 IMITATION CONTROLLED SUBSTANCES. Under current law  
16 imitation controlled substances are regulated under Code  
17 chapter 124A. The bill repeals Code chapter 124A and transfers  
18 the regulation of imitation controlled substances to Code  
19 chapter 124. The definition and designation of an imitation  
20 controlled substance in Code chapter 124 remains identical  
21 to the definition and designation of an imitation controlled  
22 substance under current law in Code chapter 124A.

23 Under the bill and in current law, an imitation controlled  
24 substance means a substance which is not a controlled substance  
25 but by color, shape, size, markings, and other aspects of  
26 dosage unit appearance, and packaging or other factors, appears  
27 to be or resembles a controlled substance. The board of  
28 pharmacy may designate a substance as an imitation controlled  
29 substance pursuant to the board's rulemaking authority and in  
30 accordance with Code chapter 17A.

31 In addition, under current law and in the bill, if a  
32 substance has not been designated as an imitation controlled  
33 substance by the board of pharmacy and when dosage unit  
34 appearance alone does not establish that a substance is an  
35 imitation controlled substance, the following factors may

1 be considered in determining whether the substance is an  
2 imitation controlled substance: the substance is represented  
3 as having the effect of a controlled substance; the substance  
4 is represented as a controlled substance or as a substitute for  
5 a controlled substance because of its nature or appearance;  
6 or a person receives money or other property having a value  
7 substantially greater than the actual value of the substance  
8 when sold.

9 Under the bill, if a person unlawfully manufactures,  
10 delivers, or possesses with the intent to deliver an imitation  
11 controlled substance containing any detectable amount of those  
12 substances identified in Code section 124.204(9), or unlawfully  
13 acts with, enters into a common scheme or design with, or  
14 conspires with one or more persons to manufacture, deliver,  
15 or possess such imitation controlled substances, the person  
16 commits the following offense: a class "B" felony punishable  
17 by confinement of no more than 50 years and a fine of not more  
18 than \$1 million if the imitation controlled substance is more  
19 than 10 kilograms; a class "B" felony punishable by confinement  
20 of no more than 25 years and a fine of not less than \$5,000 but  
21 not more than \$100,000 if the imitation controlled substance  
22 is more than five kilograms but not more than 10 kilograms; a  
23 class "C" felony punishable by a fine of not less than \$1,000  
24 but not more than \$50,000 if the imitation controlled substance  
25 is five kilograms or less; or an aggravated misdemeanor if the  
26 imitation controlled substance is classified in schedule IV or  
27 V; or a serious misdemeanor for a first possession offense,  
28 an aggravated misdemeanor for a second possession offense,  
29 or a class "D" felony for two or more previous possession  
30 offenses. Current law in Code section 124A.4 provides that if  
31 a person unlawfully manufactures, delivers, or possesses with  
32 intent to deliver an imitation controlled substance, the person  
33 commits an aggravated misdemeanor, or if the person delivers  
34 to a person under 18 years of age who is at least three years  
35 younger than the violator, the person commits a class "D"

1 felony. In addition, under current law, if a person unlawfully  
2 and knowingly publishes an advertisement or distributes in a  
3 public place a promotion for an imitation controlled substance  
4 the person commits a serious misdemeanor.

5 The bill enhances the criminal penalties for controlled  
6 substances classified in Code sections 124.204(4)(ai) and  
7 124.204(6)(i) from an aggravated misdemeanor to a class "C"  
8 felony punishable pursuant to Code section 124.401(1)(c)(8).  
9 This change equalizes the criminal penalties with violations  
10 involving other schedule I controlled substances.

11 The bill provides that if the same person commits two or  
12 more acts which are in violation of Code section 124.401(1)  
13 and the acts occur in the same location or time period so the  
14 acts are attributable to a single scheme, the acts may be  
15 considered a single violation and the weights of the imitation  
16 controlled substance may be combined for purposes of charging  
17 the offender.

18 The amendment to Code section 124.401A provides that  
19 a person who is 18 years of age or older who unlawfully  
20 manufactures with the intent to distribute, distributes,  
21 or possesses with the intent to distribute an imitation  
22 controlled substance to another person 18 years of age or older  
23 within 1,000 feet of the real property comprising a public or  
24 nonpublic school, may be sentenced up to an additional term of  
25 confinement of five years in addition to any other penalty.

26 The amendment to Code section 124.401B provides that  
27 a person who unlawfully possesses an imitation controlled  
28 substance within 1,000 feet of the real property comprising a  
29 school, public park, public pool, public recreation center, or  
30 marked school bus may be sentenced up to 100 hours of community  
31 service.

32 The amendments to Code section 124.406 relate to the  
33 distribution or possession with the intent to distribute an  
34 imitation controlled substance to a person under 18 years of  
35 age. A person who distributes or possesses with the intent to

1 distribute an imitation controlled substance, represented to  
2 be a substance listed in schedule I or schedule II, to a person  
3 under 18 years of age commits a class "B" felony. The required  
4 penalty for such a violation is a minimum term of confinement  
5 of 10 years if the substance was distributed within 1,000  
6 feet of the real property comprising a public or nonpublic  
7 school, public park, public pool, or public recreation center.  
8 A person who distributes or possesses with the intent to  
9 distribute an imitation controlled substance, represented to be  
10 a substance listed in schedule III, to a person under 18 years  
11 of age, who is at least three years younger than the violator,  
12 commits a class "C" felony. A person who distributes or  
13 possesses with the intent to distribute an imitation controlled  
14 substance, represented to be a substance listed in schedule  
15 IV or schedule V, to a person under 18 years of age, who is  
16 at least three years younger than the violator, commits an  
17 aggravated misdemeanor.

18 The amendment to Code section 124.415 requires that a peace  
19 officer make a reasonable effort to identify a person under 18  
20 years of age discovered to be in possession of an imitation  
21 controlled substance, and if the person is not referred to  
22 juvenile court, the peace officer shall make a reasonable  
23 effort to notify the person's custodial parent of the  
24 possession unless the officer has reasonable grounds to believe  
25 such notification is not in the best interests of the person.  
26 The bill specifies that if the person is taken into custody  
27 the juvenile court officer shall make a reasonable effort to  
28 identify the school of attendance and to notify the school or  
29 nonpublic school of the taking into custody of the person.

30 The bill creates Code section 124.417, which is similar to  
31 Code section 124A.5 repealed by the bill. A person registered  
32 under Code section 124.302 does not violate the bill if the  
33 person manufactures, delivers, possesses, or possesses with the  
34 intent to manufacture or deliver, or acts with others to do  
35 such activities, if the person uses the imitation controlled

1 substance for use as a placebo by a registered practitioner in  
2 the court of professional practice or research.

3 SCHEDULE I, III, AND IV CONTROLLED SUBSTANCES. The bill  
4 transfers numerous substances classified as "hallucinogenic  
5 substances" under schedule I and reclassifies the substances  
6 as "other substances" under schedule I. By transferring the  
7 substances to "other substances", a person commits a class "C"  
8 felony under Code section 124.401(1)(c)(8) if the violation  
9 involves such a substance. Under current law, a person commits  
10 an aggravated misdemeanor under Code section 124.401(1)(d) when  
11 committing such violations.

12 The bill adds new substances as "hallucinogenic substances"  
13 under schedule I. A person commits a class "C" felony under  
14 Code section 124.401(1)(c)(8) if the violation involves the new  
15 hallucinogenic substances.

16 The bill adds new substances as "stimulants" under schedule  
17 I. A person commits a class "C" felony under Code section  
18 124.401(1)(c)(8) if the violation involves the new stimulant  
19 substances.

20 The bill also adds new substances to the classification of  
21 "other substances" under schedule I. A person commits a class  
22 "C" felony under Code section 124.401(1)(c)(8) for a violation  
23 involving the new substances.

24 The bill strikes one substance classified as a  
25 "hallucinogenic substance" under schedule I and reclassifies  
26 the substance as a "stimulant" containing a synthetic cathinone  
27 under schedule I. The transfer of the substance within  
28 schedule I also changes the criminal penalty for a violation  
29 involving the substance from a class "C" felony under Code  
30 section 124.401(1)(c)(8) to an aggravated misdemeanor under  
31 Code section 124.401(1)(d). The bill also strikes a substance  
32 in Code section 124.204(6)(i)(3) from schedule I and does not  
33 reclassify the substance in any other substance schedule.

34 The bill also removes numerous substances from schedule I  
35 which are currently classified as "stimulants" in Code section

1 124.204(6)(i).

2     The bill also strikes two narcotic substances from schedule  
3 III and adds three substances to schedule IV. A violation  
4 involving a schedule IV controlled substance is punishable as  
5 an aggravated misdemeanor in Code section 124.401(1)(d).